

EXHIBIT C

ORIGINAL

ADJOURNED SPECIAL MEETING
OF THE BOARD OF DIRECTORS
OF 320 OWNERS CORP.

July 10, 2007

4:45 p.m. - 9:15 p.m.

Law Offices of Kagan Lubic Lepper
Lewis Gold & Colbert, LLP
200 Madison Avenue
New York, New York

PEREGRINE ASSOCIATES
254 South Main Street, 2nd Floor
New City, New York 10956
(845) 634-1051

Members of the Board of Directors:

Charles Lowrey, President

Leonard Brower

Stanley Engelstein

Willys A. Kals

Jerome Koenig

Sherry Pauker

Francine Russo

KAGAN LUBIC LEPPER LEWIS GOLD & COLBERT, LLP
Attorneys for Board of Directors
200 Madison Avenue
New York, NY 19916

BY: JOSEPH G. COLBERT
JACK E. LEPPER
DENISE CAMPBELL

STEPHEN A. SOMERSTEIN
Attorney for tenants Frank Harvey, Jean
Wilhelm, and Alex Harvey
292 Garfield Place
Brooklyn, NY 11215

Also Present:

Frank Harvey
Jean Wilhelm
Alex Harvey

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2 MR. LOWREY: I call this special
3 meeting of the Board to order. I turn the
4 meeting over to Mr. Colbert.

5 MR. COLBERT: My name is Joseph
6 Colbert. Mr. Lepper and I represent the Board
7 of Directors. Mr. and Mrs. Harvey I met
8 outside. Ms. Wilhelm, as I said, I just met
9 you outside. Mr. Somerstein I met today. I
10 think it would be helpful for the Board to know
11 everybody that is here.

12 MR. SOMERSTEIN: My name is Stephen
13 Somerstein.

14 MR. FRANK HARVEY: My name is Frank
15 Harvey.

16 MS. WILHELM: I am Jean Wilhelm.

17 MR. COLBERT: Just so you know, we
18 have all the Board members here present. Do
19 you know all the Board members by name? Do you
20 know everybody?

21 MS. WILHELM: We have lived there for
22 over 20 years. Yes.

23 MR. COLBERT: I am Joe Colbert, and
24 this is Jack Lepper, my partner. This is
25 Denise Campbell, our associate. You know we

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2 are general counsel to the Cooperative Housing
3 Corporation.

4 The purpose of the meeting was
5 specified in a Notice of Special Meeting of the
6 Board of Directors of 320 Owners Corp. We
7 provided you with a copy of the original notice
8 of the meeting back on June 7. To
9 Mr. Somerstein we sent it as well. I don't
10 want to have to read all of this into the
11 record. What I am going to do is mark some of
12 these, and I will show it to you, just to
13 acknowledge that you have them, you read them,
14 and they will become part of the transcript.

15 Just for formality's sake, the
16 Special Meeting was noticed, and then there was
17 an adjournment notice that was also sent to
18 you, copy of which was provided to you, which I
19 will also mark as an exhibit. It specifies
20 that the Board today is going to consider,
21 determine, and vote upon whether, pursuant to
22 paragraph 31(f), and there was a copy attached
23 to the notice of the proprietary --

24 MR. SOMERSTEIN: We will acknowledge
25 receipt of the notice.

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2 MR. COLBERT: So you are saying on
3 the record that you have seen it, you
4 understand it, you know why we are here today?

5 MR. SOMERSTEIN: Sure. Just give me
6 the exhibit number.

7 MR. COLBERT: I haven't marked it
8 yet. I will mark it, and we will use numbers
9 for ease of reference. I am going to mark this
10 as Exhibit 1 for identification, a June 7
11 letter to Mr. Harvey and Mrs. Wilhelm and
12 Mr. Somerstein, attaching the original notice
13 of Special Meeting of the Board of Directors,
14 dated June 5.

15 MR. SOMERSTEIN: Good.

16 MR. COLBERT: We will call that
17 Exhibit 1.

18 (Letter of June 7, 2007, and Notice
19 of Special Meeting marked Exhibit 1 for
20 identification.)

21 MR. COLBERT: I am also going to mark
22 as Exhibit 2 the letter dated July 5, 2007, to
23 Mr. Somerstein, enclosing the Notice of
24 Adjourned Special Meeting of the Board of
25 Directors, which attaches --

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2 MR. SOMERSTEIN: What is the date on
3 that?

4 MR. COLBERT: July 5, 2007. The
5 letter and the Notice of Adjourned Special
6 Meeting of the Board of Directors of 320 Owners
7 Corp., today's date, July 10, 2007, is attached
8 thereto with some attachments. Do you
9 acknowledge this as well?

10 MR. SOMERSTEIN: Yes, we acknowledge
11 that.

12 (Letter of July 5, 2007, and Notice
13 of Adjourned Special Meeting marked Exhibit 2
14 for identification.)

15 MR. COLBERT: The third one that I am
16 going to mark as Exhibit 3 is a June 25 letter
17 that I wrote to Mr. Somerstein. It details
18 various conduct and also attaches some My Space
19 printout and a handwritten sheet, which is
20 referred to in the letter. I am going to mark
21 that as Exhibit 3. Do you acknowledge you have
22 that as well?

23 MR. SOMERSTEIN: Yes, absolutely.

24 MR. COLBERT: Good. Just to go
25 through it, we will mark that now.

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(June 25, 2007 letter to Mr. Somerstein, with attachments marked Exhibit 3 for identification.)

MR. COLBERT: As Exhibit 4, I am going to mark the letter that you, Mr. Somerstein, wrote back to me, dated June 19, so that that is part of the transcript as well. And you acknowledge that, you are aware of that as well?

MR. SOMERSTEIN: Yes.

(Letter marked June 19, 2007, marked Exhibit 4 for identification.)

MR. COLBERT: As Exhibit 5, I am going to mark Francis J. Harvey Jr.'s letter, dated May 17, 2007, to Jack Lepper. It is a two-page letter.

Are you familiar with this? When I talk to your lawyer, you are able to speak as well.

MR. FRANK HARVEY: Yes.

(Letter of Francis J. Harvey Jr. dated May 17, 2007, marked Exhibit 5 for identification.)

MR. SOMERSTEIN: Are you going to

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2 make a copy of all the exhibits?

3 MR. COLBERT: We will make a copy,
4 and a copy of the transcript will be provided
5 to you also.

6 MR. COLBERT: As Exhibit 6 for
7 identification, I am going to mark a letter or
8 I guess it's a letter; at any rate, it is to
9 the Board of Directors. It is undated. It is
10 from Frank and, I believe, Jean, and I believe
11 the Board received this under their doors?

12 MR. FRANK HARVEY: Yes.

13 MR. COLBERT: You acknowledge that
14 you are aware of this as well?

15 MR. SOMERSTEIN: Yes.

16 (Letter from Frank and Jean marked
17 Exhibit 6 for identification.)

18 MR. COLBERT: Exhibit 7 I am going to
19 mark. It is an affidavit that was signed by
20 Pellumb Cela, C-e-l-a.

21 MR. SOMERSTEIN: Can you spell that
22 again for me?

23 MR. COLBERT: C-e-l-a.

24 MR. SOMMERSTEIN: First name?

25 MR. COLBERT: P-e-l-l-u-m-b.

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2 MR. SOMERSTEIN: And the date?

3 MR. COLBERT: May 9.

4 MR. SOMERSTEIN: Can you spell the
5 last name for me?

6 MR. COLBERT: C-e-l-a. I am just
7 going to mark it. I know you are not familiar
8 with it.

9 MR. SOMERSTEIN: And the date is?

10 MR. COLBERT: May 9, 2007.

11 (Affidavit of Pellumb Cela marked
12 Exhibit 7 for identification.)

13 MR. COLBERT: Exhibit 8 is an
14 incident report statement by Thomas Moore, who
15 is the superintendent at 325 West End Avenue.

16 MR. SOMERSTEIN: Thomas Moore? I'm
17 sorry.

18 MR. COLBERT: Yes, Thomas Moore.

19 MR. SOMERSTEIN: At 325 West End?

20 MR. COLBERT: Correct. Dated May 7,
21 2007.

22 (Incident report of Thomas Moore
23 marked Exhibit 8 for identification.)

24 MR. COLBERT: And as Exhibit 9, I am
25 going to just mark the --

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2 MR. SOMERSTEIN: We are up to 9?

3 MR. COLBERT: As 9, I am going to
4 mark the order to show cause papers and the
5 complaint which was filed yesterday. The Board
6 has not had an opportunity, because we just
7 returned from court, to look at this, but I
8 will make a representation that the Judge
9 refused to sign the order to show cause which
10 sought to stop this meeting from occurring.
11 The Judge also denied any kind of temporary
12 restraining order for that same relief. But
13 there is now a lawsuit that is being commenced
14 by Francis Harvey and Jean Wilhelm against 320
15 Owners Corp. and against Charles Lowrey as
16 President of 320 Owners Corp. You are familiar
17 with that document?

18 MR. SOMERSTEIN: I am familiar with
19 it.

20 MR. COLBERT: All right.

21 (Order to show cause and complaint
22 marked Exhibit 9 for identification.)

23 MR. COLBERT: Just so that we are
24 clear, attached to Exhibit 2 was the original
25 Notice of Special Meeting, also the Adjourned

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2 Notice; also attached is September 5, 2006
3 letter that was written by Charles Lowrey, as
4 President of 320 Owners Corp., to Mr. Harvey
5 and Mrs. Wilhelm, regarding certain conduct
6 that they described in the letter. And you
7 remember that letter?

8 MR. SOMERSTEIN: Is that Exhibit 8?

9 MR. COLBERT: It is just going to be
10 attached. I am referring to it since it is
11 buried within one of these exhibits.

12 MR. SOMERSTEIN: Exhibit 2.

13 MR. COLBERT: Attached to Exhibit 2
14 is the Notice of Special Meeting as well as the
15 Adjourned Notice.

16 What I am going to try to do now is
17 to present in some specifics the various items
18 of conduct that the Board is going to be
19 considering today.

20 After we present the facts as we know
21 them, we will give you every opportunity to
22 respond to the statements, to say whatever you
23 like, present whatever you like, to the Board.

24 After you are finished making your
25 presentation, then we are going to ask that you

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2 leave, the Board will then deliberate, and then
3 a decision will be rendered on what the Board
4 is seeking to make a determination on.

5 MR. SOMERSTEIN: Before you begin --

6 MR. COLBERT: I would like to, unless
7 what you are about to say has something to do
8 with what I already said --

9 MR. SOMERSTEIN: We discussed this
10 outside before the meeting began.

11 MR. COLBERT: About?

12 MR. SOMERSTEIN: I would like an
13 opportunity just to make a request to the Board
14 about adjourning the meeting.

15 MR. COLBERT: Why don't we do this:
16 Why don't I get through with what I have to say
17 about the conduct, and then you will make your
18 request as to what you would like to say. I
19 already advised the Board about the letter
20 asking for an adjournment. We have talked
21 about getting a handwriting expert to analyze
22 one of the documents that is attached. But,
23 again, I would like to present what the conduct
24 is, and you can make your request to them. I
25 want to get through.

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2 MR. SOMERSTEIN: Before we get into
3 it, I really would like to address the matter
4 of an adjournment.

5 MR. COLBERT: You can address it, but
6 I would like to go through at least a statement
7 of the conduct on the record.

8 MR. SOMERSTEIN: Your colleague and I
9 spoke before this meeting commenced, and I
10 thought we had agreed upon a procedure.

11 MR. LEPPER: There is no procedure,
12 but we feel comfortable that our client,
13 meaning the Board of Directors, is not going to
14 agree to adjourn this meeting now, and that we
15 proceed along the lines that Joe is suggesting.

16 If any Board member disagrees with
17 what I just said, make your views known now.

18 MR. COLBERT: We are going to proceed
19 with the meeting to present to the Board what
20 we know. I think that you should say what you
21 would like to say, and if you think you need
22 further opportunity to present something else,
23 then tell them that, say that "We would like to
24 bring in additional information," and then they
25 will make a determination as to whether or not

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2 they should have at that point a continuance of
3 the meeting. But the meeting needs to start
4 and continue, and then they can either continue
5 it or defer their decision until they hear more
6 if they feel that they want to hear more before
7 they make a decision, but that is the way we
8 are going to proceed.

9 MR. SOMERSTEIN: I guess I
10 misunderstood when we spoke outside. I
11 apologize for that.

12 MR. COLBERT: I will give you the
13 opportunity to say whatever you would like to
14 say, make whatever application you would like
15 to make, but I would like to get through the
16 rendition of the different conducts. It has
17 been specified in the notice in letters that
18 are all attached to the exhibits that we just
19 marked for identification, but I think that at
20 least a list for purposes of having some
21 organization to this presentation is in the
22 June 25 letter, which is Exhibit 3 for
23 identification.

24 It starts with, as you are well
25 aware -- I know you are, because it was the

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basis of your complaint and papers today that we argued in court about -- the firing of a pellet gun from Mr. Harvey's and Mrs. Wilhelm's apartment at people on Monday, May 7, 2007.

MR. SOMERSTEIN: I don't mean to interrupt you, but if you are reading from an exhibit, do you mind if I have a copy so I can follow along?

MR. COLBERT: I am not going to read from it. This is used for organization purposes.

MR. SOMERSTEIN: I would like to have the outline as best I can so I can follow you.

MR. COLBERT: Yes. I will have a copy made right now.

(Pause)

MR. COLBERT: You now have a copy?

MR. SOMERSTEIN: Yes. Thank you.

MR. COLBERT: I understand Alex has just arrived in the reception area.

MR. SOMERSTEIN: Let him wait out there. I will talk to him before he comes here now.

MR. COLBERT: Alex is here, but you

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2 don't want him to hear what we have to say?

3 Would you prefer to talk to him and then have
4 him hear what we have to say so that he can
5 respond?

6 MR. SOMERSTEIN: I don't want to hold
7 up the meeting. Let's continue the hearing.
8 He will come up. When there is a convenient
9 time for a break, I will explain to him what
10 happened before he got here.

11 MR. COLBERT: What I am going to do
12 is read the statements by Pellumb Cela
13 regarding the first incident that we list here
14 as firing a pellet gun on May 7, 2007.

15 MR. SOMERSTEIN: You are not reading
16 from Exhibit 3 now?

17 MR. COLBERT: I am not referring to
18 Exhibit 3, other than to use the outline
19 presented in there for the different types of
20 conduct that we are going to be talking about.
21 As I said, I am now looking and referring to an
22 Exhibit 7 which I am going to read.

23 MR. SOMERSTEIN: So can I have a copy
24 of Exhibit 7?

25 MR. COLBERT: I will, after I read

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it, get you a copy. But I don't think you need a copy for me to read it.

MR. SOMERSTEIN: All right. Again, I would like to follow along with the document if I could.

MR. COLBERT: Statement of Pellumb Cela, May 9, 2007. It says:

"I started work at 4 p.m., on 5/7. I got to the building at 3:45 p.m. I saw in front of Building 325 two police cars and between them an ambulance. I asked the daytime doorman, Mario Roman, What's going on across the street, and he told me that the Chinese food delivery guy got hit in his head and was bleeding and was claiming that someone from 325 threw something out the window and hit him. He was making a delivery at 325. I saw the porter Orlando, and super at 325 in front of the building. They were looking at 320 West End. I went downstairs, changed and came back upstairs by 4 p.m. I took my shift at the front door, and the police car and ambulance were still across the street in front of 325. The porter, evening doorman, Gabriel, and super

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at 325, were in front of 325, and they were looking at the upper floors of 320 West End. Doda came to the door and said to me that somebody hurt the Chinese guy in front of 325 and said that the Chinese guy said that someone from 325 threw something at him, but he said, 'I don't know why Alex did something wrong.' I said, 'Why, Alex is here?' and he said, 'Yes, Alex is here.' I said Doda, if he saw anything, and he said no, and he said, 'I don't think he, Alex, could hurt someone by throwing something from the 6th floor of our building across the street.'

"During the next fifteen or so minutes, an ambulance and two police cars were still across the street. I asked Mario, 320's daytime doorman, 'Where is the guy who got hurt?' and he said, 'He is inside the ambulance, they are helping him.' I saw right behind the ambulance under the canopy at 325 another Chinese guy, and one of the police officers, a woman, gave this man something. After that, the police officer and ambulance left together.

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2 "I saw across the street the super of
3 325. He was behind the glass door located at
4 the building 320 with binoculars. I then saw
5 the super from 330 West End, Vincent, go across
6 the street and speak with the doorman, porter
7 and super from 325, and then Vincent came to
8 320 and approached me and Doda and he asked
9 Doda for permission to go into 320's backyard
10 because they needed access to 330's back
11 through 320's back at about 4:30-ish. He,
12 Vincent, went to the elevator down to the
13 basement and Doda went towards his apartment on
14 the 1st floor.

15 "About fifteen minutes later, Vincent
16 came back from the basement and was so upset I
17 asked him, 'What happened to you? Why are you
18 so mad?'.
19

20 "The 'f'" -- asterisks -- kids, they
21 tried to shoot me three times.'.

22 He said he heard the noise of the
23 bullets hitting the backyard, and then he saw
24 an egg which came down close to him, and then
25 he saw the egg was dripping from the window at
the 6th floor, was Apartment 6B. I asked him

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if he saw them, and he said he saw the egg dripping from the window of 6B. Each floor has two apartments, A and B.

"Then he left the building and went across the street into the building 325 West End, and then Vincent, the doorman, Gabriel, super from 325 and porter at 325 were all looking up at the window of 320. And I saw Vincent yelling up, 'Shoot at me, try shoot at me, and I will come right upstairs after you.' Then a few seconds later, Vincent came to 320 and he talked to me and said, 'I saw them. They pulled up the shades, and I saw them with masks on their faces.' I said, 'Are you sure it is the 6th floor?' and he said, 'I'm positive.' Then Vincent left and went back to 325, and he signaled with his hands that they, super, doorman, porter from 325, called the police.

"A few minutes later the police came, more than two cars, and they went to 325, and at the same time Doda came to the front door of 320 from within the building. I then noticed that the elevator was called and stopped at the

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6th floor. The elevator came back down, and I looked into the cab window and no one was in the cab. At this moment, Doda and I acknowledged to each other that no one was in the cab, and then we both suggested to each other that we expected the kids to come down the back stairs. A few seconds later, we heard the back stairs door close and then Doda walked in front of me towards the mailroom near the back stairs. At the same time Alex and another boy, white, with a belt of bullets around his waist, were in front of the mailboxes. Alex, the other boy, and Doda and I were standing there. I looked at the front door and saw the policeman walk toward our building 320 West End. At this moment I heard Doda say, "Alex, what have you done? The police are here for you."

"Then I observed Alex and the other kid going to the south exit door of the building. Doda walked towards the front door and the policeman came towards me. I was standing behind Doda. I told the police that they, Alex and the other kid, were leaving the

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building at the side door. The police ran around the corner, and I followed, telling them that there are two boys. And the police caught them on 75th Street near our building.

"The police brought Alex and the other boys back in handcuffs in front of the building, and one of the police officers asked Alex, 'Where is the gun you were shooting?' I heard Alex say, 'It is upstairs.' One police officer, man, said to Alex, 'Let's go get the gun', and then he and Alex go get the gun and then he and Alex took the front elevator upstairs and came back downstairs about two minutes later with the gun.

"I opened the elevator door for them and the police officer asked Alex, 'Where is Simon's apartment?' I told the police officer that Simon is the superintendent's son and pointed him to his apartment. Then this officer and two other officers went to Doda's apartment and took Simon out and to the front of the building and put handcuffs on him. Then more police cars came and a police van came, and the three boys were taken away in three

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2 separate vehicles, Simon in the van.

3 "While Simon, Alex and the other boys
4 were standing in front of the building with
5 handcuffs on, Doda, his wife Maria, and his
6 daughter and some other people were standing
7 around the front of 320 West End. An elderly
8 lady asked, 'Who is that kid with the bullets
9 around his waist?' and I said, 'I don't know,'
10 at which time Peter told me his name which I
11 cannot remember. She also said he was from
12 Harlem and is crazy.

13 "Later that day, after 9 p.m., I had
14 a conversation with the doorman across the
15 street, and he told me that last week the dogs
16 were barking so much on the sidewalk in front
17 of 325. I said no. He said, Alex was shooting
18 the dogs. He said he heard the noise from the
19 gun and people were complaining."

20 So that's Pellumb's statement, which
21 is Exhibit 7.

22 MR. SOMERSTEIN: Can I get a copy of
23 that now?

24 MR. COLBERT: Yes.

25 An incident report, dated May 7,

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2007, which is Exhibit 8, I am going to read.

This is Thomas Moore, Superintendent at 325 West End Avenue, and he makes this incident report at 3:30 p.m. on May 7:

"I, Thomas Moore, Superintendent at the above location, am writing a report concerning two individuals who got hurt in front of this building at that time.

"Scott Keddy" -- telephone number, and he gives an e-mail address -- "said to doorman, Adrian Torres, that he was standing on the corner of 75th Street and West End Avenue and something hit him on his inner right thigh causing a cut.

"Liu Chang Chen" -- the telephone number is given -- "who works at the Ansonia Dry Cleaners at 230 West 74th Street, New York City, said to Mr. Torres that he was hit on the top of his head by something, causing a cut. Mr. Chen said, 'Whatever it was, it came from our building.'

"Immediately myself and staff member Orlando Rosado went to the roof to see if anyone was working in that area. We found the

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2 area clear. Arriving to the lobby, we called
3 the policeman, and an ambulance was requested
4 by Mr. Chen. A Lenox Hill ambulance arrived
5 and took Mr. Chen away. The police arrived,
6 Car No. 1773, and a report of the incident was
7 given. The police officers left at 4:08 p.m.

8 "At 5:20 I directed doorman
9 Gabriel" -- I can't pronounce it,
10 L-a-r-a-c-u-e-n-t-e -- "to call the police
11 again, suspecting possibly that a kid who lives
12 across the street at 320 West End Avenue shot
13 the two men earlier in the day with a BB gun.
14 The kid and his friend were observed by Gabriel
15 at that time at the window acting suspiciously,
16 looking out the window and then ducking away
17 quickly. Staff and I observed a small hole in
18 the canvas awning of our building. Staff and I
19 were talking of past stories where evidently
20 this kid had a history of dropping items out
21 his window, shining lasers into our lobby, and
22 another superintendent, Vincent, who lives at
23 330 West End Avenue, told staff member Orlando
24 Rosado that the kid who lives on the 6th floor
25 of 320 West End Avenue was shooting at workers

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2 in the back of his building with a BB gun
3 earlier in the day.

4 "The police arrived in car numbered
5 1485. We told them of our suspicions, and
6 Mr. Keddy returned at that time and showed them
7 the small, round cut on his leg and told the
8 officer what had occurred earlier.

9 The officers walked across the street
10 to building 320 West End Avenue, whereupon
11 asking the doorman of that building a question.
12 The doorman gestured for them to go around the
13 building to the side entrance on 75th Street.
14 The officers ran around the corner and
15 apprehended two male youths. One of them was
16 the kid on the 6th floor -- approximately half
17 a block away.

18 "Subsequently the youths were
19 handcuffed and brought back to 320 West End
20 Avenue for questioning. A third male youth was
21 brought to that location in handcuffs as well.
22 Staff identified this youth as that building's
23 superintendent's son. A BB gun, pistol, was
24 retrieved by the officers from the building,
25 and all three were taken away in patrol cars.

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The police officers told us that the youths were blaming each other for the shootings and were being taken away for further questioning. The police officers took our statements as well.

"On the above date and time, etc., while observing three youths being questioned across the street -- 320 West End Avenue -- by police officers, a woman stopped and asked me what was going on. I told her two men were shot by something earlier today, mostly from those kids with a BB gun. She then told me, 'Good, those sons of bastards, my dog was shot in the leg on this corner a week ago and is still not walking right. I hope they get what's coming to them. I have been looking for them each night I come out.' She told me that she lived across the corner and would speak to the captain of the 20th Precinct.

"I was also told the following day by Vincent, the superintendent at 320 West End Avenue that those kids had shot a homeless man who frequents a spot near 331 West End Avenue with BB pellets."

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2 And then it is signed by Thomas

3 Moore. It is not notarized, it is not an

4 affidavit, but it is an instrument signed by

5 him.

6 MR. SOMERSTEIN: Am I going to get a

7 copy of Exhibit 8?

8 MR. COLBERT: You will get a copy of

9 every exhibit, I promise you, before you leave

10 here today, other than your complaint, because

11 you wouldn't give a copy of that one.

12 MR. SOMERSTEIN: But I would like it

13 before we address the Board, before I leave.

14 MR. COLBERT: Yes, of course.

15 There was an interview done of the

16 super at 330 West End Avenue -- Vincent -- and

17 his last name is C-a-m-a-j --

18 MR. SOMERSTEIN: Is this an exhibit?

19 MR. COLBERT: No. Just notes based

20 upon a meeting.

21 MR. SOMERSTEIN: Excuse me. Can we

22 mark it as an exhibit so it is clear on the

23 record? Tell me again what you are reading.

24 Interview of a super?

25 MR. COLBERT: It is an interview of a

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2 super, Vincent C-a-m-a-j.

3 MR. SOMERSTEIN: And he is the super
4 of where?

5 MR. LEPPER: 330 West End.

6 MR. COLBERT: He says:

7 "At about 4:30 p.m., contractors at
8 the 330 building in the rear were working on
9 the terrace of Apartment 2B. Vincent went to
10 320 rear yard to watch workers and heard
11 popping noise. The workers heard same popping
12 noise. Vincent inquired as to whether the men
13 were hurt, looked up and saw egg dripping down
14 from upper-floor apartment. Went up to
15 building of elevator and asks Pellumb,
16 P-e-l-l-u-m-b, what happened. Those across the
17 street with 325 speak with Thomas Moore,
18 M-o-o-r-e, Porter Rosado, and Doorman Gabriel.
19 Vincent waits and cops arrive. Vincent says he
20 saw one person at sixth floor with the mask.
21 Cops across the street walked toward 320 and
22 run to 75th Street and return with two kids."

23 MR. SOMERSTEIN: Are we going to get
24 a copy of that?

25 MR. COLBERT: No, those are just

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2 notes. It is in the record.

3 MR. SOMERSTEIN: Can I get a copy of
4 that?

5 MR. COLBERT: They are notes,
6 transcribed notes. No. It is in the record.
7 We just read it into the record. If you want
8 me to read it again, I will be happy to.

9 MR. SOMERSTEIN: I would like a copy
10 to refer to so I can address the Board as to
11 it.

12 MR. COLBERT: Can I have a copy of
13 your notes? I am asking you a question. This
14 is not adversarial.

15 MR. SOMERSTEIN: I don't want it to
16 be adversarial. I am looking for fairness.

17 MR. COLBERT: It is an interview by
18 Jack of this individual, and those are Jack's
19 notes on the individual's statements that he
20 gave to Jack Lepper.

21 MR. LEPPER: When we received the
22 statement from Mr. Moore and we received the
23 statement from Pellumb, we met with the super
24 from the building next door to see whether his
25 understanding was consistent with our

1 Meeting - Board of Directors
2 understanding of the statements that we
3 received. From what Joe read, it was very much
4 so.

5 MR. SOMERSTEIN: I understand, but I
6 just want to be able to refer to it when I am
7 making a presentation to the Board.

8 MR. LEPPER: Make a note of it. We
9 will talk about it afterwards.

10 MR. SOMERSTEIN: I don't want to make
11 this adversarial, I understand we are not in a
12 court of law; I just want an opportunity to be
13 prepared.

14 MR. COLBERT: Let me tell you what I
15 am going to read from next. To be honest with
16 you, if we didn't spend a whole day in court
17 today, we intended to highlight the references.
18 It was a meeting that we had with Simon Camaj
19 -- C-a-m-a-j -- who is the superintendent's
20 son, who has been referred to -- and we all
21 know who he is -- in the statements. Jack
22 Lepper, Denise Campbell, and I were there, and
23 we had a meeting with him. We asked him
24 certain questions. We tape-recorded it with
25 his permission, and we had it transcribed. A

1 Meeting - Board of Directors
2 lot of it really we don't need to read into the
3 transcript, but there are certain portions of
4 it that we deem important for the Board to
5 consider in making the determination. We will
6 get a copy of --

7 MR. SOMERSTEIN: Are you going to
8 mark this as an exhibit?

9 MR. COLBERT: I don't think we are
10 going to mark it as an exhibit, but you will
11 have it available to you, if you like,
12 afterwards.

13 MR. SOMERSTEIN: The entire
14 transcript?

15 MR. COLBERT: Let me reserve on that.

16 MR. SOMERSTEIN: And I would also
17 like, if there is a tape, an opportunity to
18 listen to the tape so I can make sure the
19 transcript is accurate.

20 MR. COLBERT: If the Board wants to
21 hear it after the meeting or continue the
22 meeting to hear the tape to hear what it hears
23 today, again it is the Board's decision. You
24 have the ability to make any request you like.

25 MR. LEPPER: You can make the

1 Meeting - Board of Directors

2 request.

3 MR. COLBERT: And I have no problem
4 giving you the opportunity to say whatever you
5 want to say.

6 I thought it important for Alex to
7 hear what his friend is saying about what
8 happened that day so he can make his own
9 statement, but you are saying you want to talk
10 to him. Do you want him to be here for this?

11 MR. SOMERSTEIN: What I am asking is,
12 if you are reading from the transcript, I would
13 like to listen to the tape of the transcript to
14 make sure the transcript is accurate.

15 MR. COLBERT: Again, the transcript
16 is based upon my conversation with Simon that
17 day. Jack was there, it was his conversation
18 with him. I was there. I am making a
19 representation to the Board that this is --

20 MR. SOMERSTEIN: But I have heard
21 many tapes compared to many transcripts --

22 MR. COLBERT: You have put your
23 statement on the record. You have made your
24 statement. What I am saying is that I am
25 taking it under advisement. But right now I am

1 Meeting - Board of Directors

2 reading from the transcription of our taped
3 recording of the discussion.

4 MR. LEPPER: Just for clarity's sake,
5 because we were not here all day, I think it
6 would have been more efficient to go through it
7 earlier and have it marked as to references.
8 We did not have the time. Some of these issues
9 may relate to other incidents. It may not
10 necessarily go in order. We want it all in the
11 record.

12 MR. COLBERT: Off the record.

13 (Discussion off the record)

14 MR. COLBERT: I am going to read
15 through this transcript --

16 MR. SOMERSTEIN: So I am clear -- I
17 am sorry to interrupt you -- you conducted the
18 interview?

19 MR. COLBERT: We had an interview of
20 Simon regarding various issues, and we taped it
21 and it was transcribed. We had a secretary
22 over the weekend transcribe this, so that we
23 could then present it if we deemed it
24 appropriate.

25 MR. SOMERSTEIN: But you were the

1 Meeting - Board of Directors

2 interviewer?

3 MR. COLBERT: We conducted the
4 interview.

5 MR. SOMERSTEIN: You?

6 MR. LEPPER: Joe Colbert and Jack
7 Lepper were the interviewers.

8 MR. SOMERSTEIN: Both of you. OK.

9 MR. COLBERT: So this is an interview
10 of Simon:

11 Q. So you've known Alex pretty much as
12 long as you can remember probably; right?

13 A. Yes.

14 Q. OK. There have been a number of
15 alleged incidents relating to him and everyone
16 knows that you are a close friend of his and we
17 are trying to get information to try and figure
18 out what's going on.

19 A. OK.

20 Q. All right. We spoke with a lot of
21 other people, OK, and some you may know about
22 and some you may not know about, and we are
23 trying to get the story down as best as we can.
24 As far as Alex is concerned, give us a little
25 description of your relation with Alex.

1 Meeting - Board of Directors

2 A. I basically know him since I was a
3 kid. We grew up together in the same building.
4 We used to hang out a lot.

5 Q. When you say you hang out a lot, you
6 hang out at his apartment a lot?

7 A. His apartment or he would come to
8 mine or we would go to the movies.

9 Q. OK. What apartment is his?

10 A. 6B.

11 MR. LEPPER: Again, I am going to
12 paraphrase some of this, because all of it is
13 not relevant to at least the shooting incident
14 and there are several other items of conduct
15 which the Board is going to consider.

16 You know, what I am going to do
17 actually, before we go through the rest of this
18 transcript, is to refer you back to Exhibit 3
19 and go through the other categories of conduct.

20 MR. SOMERSTEIN: You are kind of
21 losing me.

22 MR. COLBERT: I am trying not to.
23 Exhibit 3, which you have in front of you,
24 lists various conduct. One was the firing of a
25 pellet gun from Mr. Harvey and Ms. Wilhelm's

1 Meeting - Board of Directors

2 apartment at people on May 7, 2007.

3 The next area was vandalism of
4 storage lockers in the building, which were
5 damaged and marked with swastikas in February
6 of 2004.

7 The next one is incidents that
8 occurred on August 7, 2006, when a building
9 doorman discovered derogatory writing in the
10 front desk logbook concerning the doorman and
11 his family, and we attached a copy; and then
12 again on August 8, 2006, when, during that
13 evening, water was poured down the freight
14 elevator shaft onto the doorman. On Thursday,
15 August 10, 2006, Alex Harvey approached that
16 doorman brandishing a knife.

17 The next one is Alex's carving the
18 doorman's name on the front stairwell door and
19 the service elevator panel and subsequently
20 painting the same in or about August 2006.

21 Additionally listed in this
22 particular letter: On August 25, 2006, Alex
23 Harvey's involvement in setting off fireworks
24 or incendiary devices in the basement of 320
25 West End Avenue.

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2 Also referenced in here was the My
3 Space page. There is a variety of things on
4 the My Space page, and in the section "About
5 Me," he puts "Cap homeless people for fun."
6 There's additional things.

7 The Board has read this paper and
8 read the My Space page, which you have also
9 acknowledged you have seen.

10 Additional conduct that we are aware
11 of which is going to be described was the laser
12 pen, pointing the laser pen at people outside
13 the window, laser beam.

14 MR. LEPPER: It is a laser beam.

15 MR. COLBERT: The little pointer, the
16 laser beam pointers where you point things,
17 pointing at people as they were passing by.
18 That's described in the affidavits or the
19 statement that I just read as well as it is
20 also referenced by Simon when we interviewed
21 Simon.

22 In addition, it was earlier on we
23 understand he used to take toilet paper, wet
24 it, throw it out, make a mess, to make it
25 difficult for building employees to clean up.

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2 Again, that was years ago, I understand.

3 MR. SOMERSTEIN: We never had notice
4 of any of this as the subject of the meeting.

5 MR. COLBERT: You can make your
6 record. As I said, we are raising it now, and
7 the Board is going to consider it. That is
8 some of the conduct. The notice was clear that
9 it said including the shooting of the pellet
10 gun, the firing of the pellet gun.

11 We are not going to have legal
12 argument again. These are just facts that we
13 culled together for the Board to consider and
14 to allow you to make your own statements as to
15 many of these. You know about these incidents.
16 Most of them are documented in letters now that
17 go back over a year.

18 Now I am going to go back to the
19 secretarial transcription of our discussions
20 with Simon.

21 First, we're going to take a short
22 break.

23 (A recess was taken.)

24 MR. COLBERT: For the record, we took
25 a break. Alex Harvey has come to the office.

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He is meeting with Mr. Somerstein in a separate conference room. Mr. Somerstein asked for about ten or fifteen minutes so that he can speak with Alex, and prepare him, I suppose -- I hate to use the word "prepare" -- before we continue with the meeting. So we are allowing him the opportunity to do that, to give him an opportunity to meet with Alex before proceeding. Then, when he returns to the meeting, we will continue it.

(A recess was taken.)

MR. COLBERT: Let the record reflect that Alex Harvey is now here, and that we gave him an opportunity to confer with Mr. Somerstein prior to continuing the meeting.

MR. SOMERSTEIN: And we would like to thank the Board for that opportunity. I hope we didn't inconvenience you by delaying the meeting too long.

MR. COLBERT: Just so the record is clear, this transcription of the tapes was done by a secretary. It will be marked. But there may be typos in it. It is not a perfect copy.

For better ease in understanding who

1 Meeting - Board of Directors

2 is asking the questions and who is doing the
3 answering, I am going to read the questions,
4 Jack is going to read the answers, so you can
5 differentiate between who is saying what. I
6 believe it was a bit muddled.

7 MR. SOMERSTEIN: I would ask that the
8 whole thing be read so we have it in context.

9 MR. COLBERT: You are going to be
10 free to do that.

11 MR. SOMERSTEIN: The whole thing.

12 MR. COLBERT: And also you should
13 know that the interview took place on May 25 of
14 2007.

15 Where I left off was at the bottom of
16 the page. Again, I will be reading the
17 questions; Mr. Lepper will be reading the
18 answers:

19 Q. Do you know how many bedrooms 6B has,
20 like how many rooms in that apartment, do you
21 know?

22 A. I would say like three bedrooms, I
23 think.

24 Q. Three bedrooms?

25 A. Yeah.

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Q. So he's got a bedroom?

A. His Mom, and they have a maid's room but it's a bedroom.

Q. Parents and maid's room. Where do you hang out typically when you are at the apartment?

A. His room.

Q. In his room? And when you are in his room are there windows in that bedroom?

A. Yes.

Q. Which way do the windows face? Do they face towards West end? Do they face towards 76th Street, do they face towards --

A. They face toward West End.

Q. They face towards West End?

A. Yeah.

Q. Are there any other windows, is there a corner?

A. There is a corner, and then there is a bathroom, and then there is another window right there.

Q. But only one set of windows in his room that face West End?

A. Yeah.

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Q. All right. Do you ever hang out in the living room or any of the other rooms there?

A. Sometimes. Mostly his bedroom.

Q. All right. Does he have a TV in his room?

A. Yes.

Q. OK. Can you give me a complete description of his room?

A. Bed, TV. Good size of a room, I would say.

Q. Yeah.

A. Blue.

MR. COLBERT: Again, it might have been a typo, might be the color is blue.

Q. What does he have in his room? Does he have posters or fixtures?

A. He has a computer. Yeah, I think he has a couple posters or pictures.

Q. Who are the pictures of, do you know?

A. One was of his grandfather? I don't know.

Q. Does he have anything else displayed on the walls or --

1 Meeting - Board of Directors

2 A. That's it.

3 Q. That's it. Does he have things
4 hanging or nothing that you can recall?

5 A. No.

6 Q. OK. When you hang out, you guys go
7 to the movies together, or do you go to the
8 clubs together?

9 How old are you?

10 A. 18.

11 Q. And how old is Alex, do you know?

12 A. 19.

13 Q. Alex is 19 now? So you guys ever go
14 on vacation together at all?

15 A. No.

16 Q. Did you guys go to camp together at
17 all? Nothing like that.

18 A. No.

19 Q. Did you play sports together?

20 A. We played basketball sometimes.

21 Q. Who's better?

22 A. Me.

23 Q. How big is Alex? Is he bigger than
24 you, smaller than you?

25 A. Taller.

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Q. He's taller than you?

A. Yeah.

Q. Is he heavier than you?

A. No.

Q. Also slim, same build? You guys ever do any, absent of paint -- unclear.

You guys played ball also?

A. Yeah.

Q. Paint ball together?

A. We did it once.

Q. Once. Where did you guys go?

A. Queens. Not sure of the name of the place.

Q. Do you know where it was in Queens? You only went one time? Did Alex go more often than you or did he go with other guys?

A. He goes away to college, so I am not sure if he goes that much.

Q. Do you know if he went any time that you didn't go? Whose idea was it to go, yours or his?

A. Both.

Q. You both simultaneously had the --

A. Yeah.

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Q. Well, if you both simultaneously have the idea so how did it come up?

A. A friend. And then we just decided to go.

Q. A friend talked to you about it?

A. Yeah.

Q. Who was the friend?

A. Darden.

Q. Darden?

A. Yeah.

Q. Do you know what Darden's last name is?

A. No.

Q. Does Darden live in the building?

A. No.

Q. Do you know where he lives?

A. 77th Street, I think.

Q. Darden wasn't there that day when --

A. No.

Q. All right. So Darden has that paint ball --

A. Yeah.

Q. Darden has his own paint ball gun?

A. I think so.

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Q. And what about you? Do you have a paint ball gun?

A. Yeah.

MR. LEPPER: Just so the record reflects, this is the first time the Board is hearing these statements. In addition to the statement and affidavit by Pellumb and the super of the other building, the Board has not been privy to that until today as well.

Q. What about Alex? Does Alex have a paint ball gun?

A. Yes.

Q. What kind of paint ball gun does Alex have? Is it a rifle-type gun, is it a handgun??

A. A rifle-type gun.

Q. And yours also?

A. A small gun.

Q. Yours is like a pistol?

A. Some type of pistol, yeah.

Q. This big? That big?

A. About this big.

Q. Did you hold it with one hand?

A. Yeah.

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2 Q. Did you ever play paint ball before?

3 A. No.

4 Q. I think it hurts. Do you shoot like
5 rapid fire?

6 A. Yeah. You can --

7 MR. LEPPER: That looks like he said,
8 "Did you ever play paint ball before?" He
9 responds "No." Continuing:

10 Q. Do you shoot like rapid fire?

11 A. Yeah, you can, it's little balls --

12 Q. OK, so you have a pistol-type gun,
13 Alex has a rifle-type gun, and your other
14 friend Varden has a --

15 A. Same gun as me. I could give you the
16 name of the gun if you want the name of the
17 gun.

18 Q. OK. What is it?

19 A. Ion.

20 Q. What is it called?

21 A. Ion.

22 Q. Ion. You have, like, magazines for
23 this stuff?

24 A. No, no.

25 Q. So how did you know to get an Ion

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gun?

A. Bought it on-line.

Q. You bought it on-line. Is Ion in high school still? Has he graduated?

A. Who?

Q. Sorry. Darden.

A. He's in high school?

Q. Darden is in high school still?

A. Yes.

Q. Senior? Junior?

A. Junior, I think.

Q. So he's younger than you are?

A. Yes.

Q. Do you have any other kind of guns?
Pellet gun, BB gun?

A. No.

Q. Nothing?

A. No.

Q. What about Barden? Do you know if he does?

A. Not sure.

Q. Do you have any other equipment for the paint balls, like a vest or a hat?

A. Helmet.

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Q. You have a helmet? What about Alex,
do you know if he has a helmet?

A. I think he does.

Q. Alex has a helmet also?

A. Yeah.

Q. What about Darden?

A. I think so.

Q. You think he has a helmet as well?

A. Yeah.

Q. Like what kind of fatigues? Did you
get that on-line, like Army fatigues? Any
other equipment? Do you guys wear gloves?

A. No.

Q. Your hands are going to get hit.

A. It's OK. It hurts.

Q. Do you know whether Darden ever has
had any other gun?

A. That's it.

Q. And what about Alex?

A. He has a pellet gun.

Q. He has a pellet gun?

A. Had.

Q. Had. And the pellet gun, was it a
gun or rifle?

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A. More like a pistol.

Q. More like a pistol?

A. Yeah.

Q. Where did he keep it?

A. In his bedroom.

Q. Where in his bedroom?

A. Closet.

Q. He kept it in his closet?

A. Yes.

Q. Is that where he kept the paint gun
as well?

A. No.

Q. Where did he keep the paint gun?

A. He hung it on his wall.

Q. The paint gun was hung on the wall
like on a gun rack?

A. No. It has straps so he hung it up.

Q. The paint gun he kept hanging and the
pellet gun he kept in a closet. Was it a
pellet gun or a BB gun?

A. Pellet.

Q. And did he use a cartridge or pump?
What powered it?

A. You pump it.

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Q. Do you know who made it? Was it a Crossman or Daisy?

A. I have no idea.

Q. So you pumped it up and gave it its power, and did you use it for target practice or stuff like that?

A. Just playing around.

Q. Right, OK. Where did he keep the pellets?

A. In the box with the gun.

Q. The gun was in a box?

A. Yeah.

Q. How many pellets?

A. Tin.

Q. They come in a tin?

A. Yeah.

Q. How many pellets? How many are in a tin, about?

MR. LEPPER: The tape is not clear. It's not clear.

Q. You don't put the tin into the gun like a cartridge?

A. No.

Q. You load the gun. You pour them in;

1 Meeting - Board of Directors

2 right?

3 A. Yeah.

4 Q. You pour them into the handle of the
5 gun or the back? How does it work?

6 A. The back of the gun.

7 Q. How do you operate it?

8 One second, his Mom is on the phone.

9 MR. LEPPER: His Mom was on the phone
10 at that time so we took a break. Continuing:

11 Q. So you pour the pellets into the back
12 of the gun?

13 A. Yeah.

14 Q. OK. So how does it pump?

15 A. At the bottom near the tip of the
16 gun.

17 Q. It has the little thing and you pump
18 it up to what? Eight times?

19 A. I'm not sure. The one that I had you
20 pumped it once or twice.

21 Q. So he had a pellet gun and the box in
22 the closet?

23 A. Right.

24 Q. All right. You guys see a lot?

25 A. Yeah.

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Q. And when you go see movies, is it typically and Alex or anyone else? Like do you have a group? Like I have my group of five when I was in high school.

A. No, just us.

Q. Mainly the two of you. What about, do you have brothers who hang with you or --

A. Not really.

Q. You have an older brother; right?

A. Yeah.

Q. What is your older brother's name?

A. Zeff.

Q. Zeff, right. Where is Zeff now? Does he live at home or --

A. He lives in Harlem. He works at the building next door.

Q. He works as a doorman next door. OK, so he does hang out with you guys?

A. Not much.

Q. Sometimes?

A. Sometimes.

Q. OK. Does he do the paint ball stuff with you or --

A. No.

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Q. Zeff is your older brother and you have younger siblings; right?

A. My sister.

Q. What is your sister's name?

A. Rosie.

Q. Rosie? And who else?

A. That's it.

Q. That's all that's in the house?

A. My Mom, Dad, my older sister Vicki, me and Rosie.

Q. The only one that hangs out with Alex is you?

A. Yeah.

Q. Who is Taylor?

A. One of my friends. I know him through Darden.

Q. OK. How well do you know Taylor? What is Taylor's story?

A. I've known him for about two years.

Q. And where does he live?

A. 116th Street.

Q. What is Taylor's last name?

A. Grande. G-r-a-n-d-e.

Q. Grande. So you know him about two

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years?

A. Yes.

Q. And you know Taylor through --

A. Darden.

Q. -- through Darden, OK. And how old
is Taylor?

A. 17.

Q. Is he still in high school?

A. I don't think so.

Q. Did he finish school?

A. No.

Q. He dropped out of high school. Does
he work?

A. Yeah?

Q. What does he do?

A. He does some stuff with his father.

Q. Sold to his father the computer?

A. Yeah.

Q. OK. And does Taylor have a paint ball
gun?

A. Yes.

Q. When you guys went to use paint ball
guns, were you guys all together?

A. Yeah.

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2 Q. So that would mean you started,
3 Taylor, you, and Alex?

4 A. Yeah.

5 Q. You guys all went to Queens together,
6 like an outing?

7 A. Yeah.

8 Q. The place in Queens, how does it work
9 there? Do you have to sign in or you show up?

10 A. You pay the amount of money, they
11 give you paint balls, and then you go to the
12 arena.

13 Q. Do you sign your name?

14 A. Yeah. You do.

15 Q. You sign your name. So that when you
16 go there, you have to sign your name when you
17 went there?

18 A. Yeah.

19 Q. All right. So you are telling me
20 that if I went to this place and got the
21 records for the last two or three years, that
22 your name would only be there once and that you
23 have only been there one time?

24 A. Yes.

25 Q. OK. And Taylor, to your knowledge,

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2 did the same thing, you all went there one
3 time?

4 A. I think Taylor and Darden went
5 before, but I know me and Alex only been there
6 once.

7 Q. OK. How long ago that you were
8 there?

9 A. I would say about a year.

10 Q. About a year ago, and did you buy
11 your paint ball gun before or after you went
12 there?

13 A. After.

14 Q. So you bought it afterward, but you
15 never went back and you never used the gun
16 again?

17 A. Nope.

18 Q. OK. Can I ask you why?

19 A. I just bought the gun because the
20 rentals you get are not very good.

21 Q. Right. But you never used it since?

22 A. That's true.

23 Q. That doesn't make sense, does it?

24 A. Just haven't been going.

25 Q. You had the gun for about a year?

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2 A. A little less.

3 Q. A little less than a year?

4 A. Yeah.

5 Q. How much did it cost?

6 A. I think \$200.

7 Q. By the way, does your Dad know you
8 have this gun?

9 A. I think so, yeah.

10 Q. He knows? Did your Dad pay for it or
11 did you pay for it?

12 A. I paid for it.

13 Q. Do you have to be a certain age to
14 buy them? Do you have to represent that you
15 are 18? You are 18; right?

16 A. I'm 18, yeah.

17 Q. So you have to represent that you are
18 18 or 17, or do you know?

19 A. I'm not sure that they care very
20 much.

21 Q. So they don't. There are ways to get
22 around it?

23 A. Probably.

24 Q. Yeah. I'll tell you what's a little
25 tough to understand is that you go and play

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paint ball, and I did it, so I understand that,
and you go and buy and you never do it again.

You never go there but -- did you go elsewhere?

Did you ever go to target practice?

A. Nope.

Q. You never shot the gun once after you
bought it?

A. Yeah, I shot the gun once, yeah.

Q. Where did you shoot it?

A. It was in the basement.

Q. So you shot the gun in the basement?

A. Yeah.

Q. At least I can believe that. So when
you shot the gun in the basement, were you with
Alex?

A. No.

Q. So you shot it by yourself?

A. Yeah.

Q. Do you know if Alex -- so when you
bought your gun, did Alex buy a gun at the same
time?

A. He had his gun.

Q. He already had his gun?

A. Yeah.

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Q. OK. Did you ever shoot your gun with Alex?

A. No.

Q. Did you ever see Alex shoot his paint ball gun?

A. No.

Q. So Alex is your closest friend, you both have these paint ball guns, and you never went out and played with them?

A. That day and that was it.

Q. That one time?

A. Yeah.

Q. Did someone get hurt that day, did something happen that day that you never wanted to do it again?

A. No.

Q. OK.

A. It's just that he's away and I don't like going by myself and we just haven't gone.

Q. OK. All right. Do you have any kind of knives that you have, like pocketknives?

A. No knives.

Q. You have none. What about Taylor?

A. Not that I ever seen.

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2 Q. OK. And what about Darden?

3 A. Nope.

4 Q. What about Alex?

5 A. No.

6 Q. All right. Simon, I know that Alex
7 walks around with a knife. I've had everyone
8 tell me that Alex walks around with a knife.
9 You are his closest friend. Look at me. You
10 know what, I mean I could --

11 A. I never seen him with the knife.

12 Q. You've never seen him with a knife.
13 Everyone, strangers, have seen him walking
14 around with a knife, but his closest friend has
15 never seen him walk around with a knife?

16 A. Never seen him walk around with a
17 knife.

18 MR. SOMERSTEIN: Excuse me --

19 MR. LEPPER: Do not interrupt.

20 Q. You've never seen him carry a knife?

21 A. Nope.

22 Q. Do you know what knife I am referring
23 to? That he has in his room? Everybody,
24 strangers in the building know that Alex has a
25 knife but you have no clue?

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A. Never seen him walk around with the knife, no.

Q. You've never seen him carry a knife and he doesn't have a knife?

A. No.

Q. OK. If he told me that you know that he has a knife, is that going to make you feel better?

A. Yeah, but I never seen him walk out of his apartment with the knife.

Q. He doesn't walk out of the apartment with the knife?

A. Yeah.

Q. All right, but you'd seen him in the apartment with the knife?

A. I've seen the knife, sure.

Q. Well, OK, a second ago you told me that you didn't see the knife.

A. You asked me if I had seen it outside.

Q. Did you ever see him have the knife? is what I asked.

A. In the house I'd seen the knife.

Q. OK. So why don't you describe the

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2 knife to me to make sure we are talking about
3 the same knife that everyone else is talking
4 about.

5 A. I forgot the name of the knife, but
6 it is sort of a knife that splits open.

7 Q. How did it split open? Like a
8 switchblade?

9 A. No. It's like closed and then it
10 opens and the knife comes out.

11 Q. Like a butterfly?

12 A. Yeah.

13 Q. How big is the blade on the knife,
14 approximately? 3 inches, 5 inches, 6 inches?

15 A. I guess it would be 5 inches.

16 Q. 5 inches. Do you know where he got
17 the knife from? He got it on-line too?

18 A. Probably.

19 Q. How do you know that?

20 A. Because he gets everything on-line.

21 Q. What else has he gotten on-line?

22 A. All his games and everything.

23 Q. The BB gun, the pellets? Did he get
24 that on-line?

25 A. Yes.

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Q. How do you know that he got it
on-line?

A. How do I know?

Q. Yeah.

A. Because he told me.

Q. He told you that he got it on-line
and the pellets he got on-line also? How long
does he have the pellet gun?

A. I would say over a year.

Q. He's had it over a year? OK, more
than two years, do you think, or are you not so
sure? He had one in high school?

A. I don't know.

Q. He didn't have it in high school. So
he already graduated from high school before he
got it?

A. So about one year.

Q. OK. Did you and he ever shoot the
pellet gun in the basement?

A. No.

Q. Anywhere in the building?

A. No.

Q. Other than your paint ball gun, did
you ever shoot any other gun in the building or

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2 anywhere else with him? Did you ever shoot a
3 gun?

4 A. No.

5 Q. When you went to the paint ball, you
6 practiced with your gun, you never shot any of
7 these other guns?

8 A. I never seen him shoot his gun.

9 Q. OK. Do you know whether he did or
10 not?

11 A. I don't know. I just never saw him.

12 Q. OK. When you say he buys things
13 on-line, you say he buys games. What kind of
14 games does he buy?

15 A. X-Box 360 games.

16 Q. I should probably have a kid asking
17 these questions because I don't know what X-Box
18 360 games are. What kind of games are in X-Box
19 360?

20 A. Sports.

21 Q. Is he into sports sites?

22 A. Not that much.

23 Q. No. So he is not buying sports
24 games?

25 A. He is buying pretty much everything.

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2 Role playing.

3 Q. Role playing? What is role playing?

4 A. You're a character, you rescue it,
5 you have magic powers, stuff like that.

6 Q. OK. So what kind of characters are
7 they? Are they soldier character?

8 A. Warrior and master ranger.

9 Q. Ranger?

10 A. Yeah.

11 Q. What's ranger? For example, what do
12 I do? I'm playing ranger so I want to rescue a
13 ranger?

14 A. Yeah.

15 Q. So I give the ranger a personality?

16 A. No, not really. You just get it to
17 the level you want. You have quests and stuff
18 like that.

19 Q. Quests?

20 A. Like they give you missions.

21 Q. Right. So give me an example
22 mission. I've got to rescue people. What do I
23 have to do?

24 A. Basically that.

25 Q. Am I sometime the good guy, sometime

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2 the bad guy?

3 A. I think you are always the good guy.

4 Q. I'm always the good guy.

5 A. Yeah.

6 Q. And I got to go out and rescue
7 people. And when I go out and try to rescue
8 people, I'm what, shooting people, capturing
9 people?

10 A. Pretty much. Yeah.

11 Q. OK. So all the games are that type
12 of game?

13 A. Pretty much.

14 Q. If I wanted to be the bad guy, could
15 I be the bad guy in the games?

16 A. No.

17 Q. So the games don't allow you to be
18 the bad guy? You've got to be a good guy.

19 A. Yeah.

20 Q. But all the games are the same? What
21 do you mean by all the games? These are the
22 ones that Alex has, every one of the games that
23 Alex has?

24 A. On X-Box it could be -- I guess that
25 is the bad side and is the good side.

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2 Q. OK. Can you guys play against each
3 other?

4 A. Yeah.

5 Q. OK. So have you ever played against
6 each other?

7 A. Yeah.

8 Q. So Alex is always playing on the
9 good-guy side. Are you always on the bad-guy
10 side?

11 A. We switch around.

12 Q. You switch around. OK. So sometimes
13 Alex is on the bad-guy side?

14 A. Yeah.

15 Q. OK. So now you are playing these
16 games. Do you do this a lot?

17 A. Yeah.

18 Q. And this is in Alex's room?

19 A. Yeah.

20 Q. OK. Do you have like speakers set up
21 in the room?

22 A. Yeah.

23 Q. So there are pretty cool special
24 effects and stuff?

25 A. Yeah.

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Q. Does Alex have a good stereo speaker or speaker system, amplification system in his room?

A. Yeah. I don't know the name of it, though.

Q. But it's good?

A. Yeah.

Q. OK. All right. Let's talk about what you did that Monday? All right. Why don't you tell me about the early part of the day. Had you guys hung out over the weekend prior?

A. He had just got back from college like the night before or something.

Q. The night before, which was Sunday.

A. Yeah. Sunday or Saturday, I'm not sure.

Q. When was the last time you saw Alex prior to that?

A. A while.

Q. What does that mean? A day, a week, two weeks?

A. Two weeks, about.

Q. He was home about two weeks prior?

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2 A. Yeah.

3 Q. He was home for the weekend or --

4 A. Weekend.

5 Q. Do you know if he got home on a
6 Friday, Saturday or Sunday?

7 A. I think Saturday.

8 Q. Saturday. He went back when?

9 A. Sunday.

10 Q. And that was the weekend before or
11 two weekends before?

12 A. Two.

13 Q. Two weekends before? You are pretty
14 sure?

15 A. Yeah.

16 Q. OK. So that was that weekend. Did
17 you spend time with him in the apartment?

18 Q. Yeah.

19 Q. And the prior weekend did you play
20 video games with him? Or who else was there?
21 Just you two?

22 A. Just us two.

23 Q. Just the two of you. OK. And no one
24 else was there? During the day? At night?

25 A. Day.

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Q. During day? On both days, Saturday,
Sunday?

A. Saturday.

Q. Mostly Saturday?

A. Yeah.

Q. What about Sunday?

A. Not really.

Q. Well, not really yes or --

A. No.

Q. What about Saturday night? Did you
guys go out Saturday night?

A. I just went up to his house.

Q. Up to his house? Up to his
apartment?

A. Yeah.

Q. On Saturday night.

A. Yeah.

Q. So you were there Saturday night?

A. Yes.

Q. You guys hung out?

A. We played video games.

Q. Video games. OK. So that's Saturday
night. What happened on Sunday, that Sunday
two weeks prior?

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2 A. Two weeks after?

3 Q. No, we are still back when he came
4 home.

5 A. OK. He went back to school.

6 Q. On Sunday, you think?

7 A. Yeah.

8 Q. So you didn't see him at all that
9 day?

10 A. No.

11 Q. OK. All right, so you didn't see him
12 in the interim two weeks. Now it's the Monday
13 of the whole mess. So let's talk about Monday
14 morning. What happened that Monday morning?

15 A. I woke up. I called him and I asked
16 him if he wanted to come to the store with me
17 because he wanted to go to Circuit City also.

18 Q. What time was that, about?

19 A. Maybe 10 or 11.

20 Q. About 10 or 11. OK. About 10 or 11
21 you call him up. OK, what does he say?

22 A. Sure I'll come.

23 Q. OK. You go downstairs or you went
24 upstairs?

25 A. We both met downstairs.

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2 Q. OK. You met downstairs in the lobby
3 and you went to Circuit City about what time?

4 A. 11 o'clock. About the same time we
5 walked down.

6 Q. OK. You walked down, and where is
7 Circuit City?

8 A. 79th Street and Broadway.

9 Q. What were you getting there?

10 A. Ink cartridge.

11 Q. Paint cartridge?

12 A. Ink cartridge. For the computer
13 printer.

14 Q. His computer, your computer?

15 A. Mine.

16 Q. OK. Did you get lunch?

17 A. No.

18 Q. So then what happened?

19 A. Then we went home. I went to my
20 house to eat.

21 Q. What time was that, about?

22 A. I would say about 12 or 12:30.

23 Q. OK. Where did Alex go?

24 A. He went upstairs.

25 Q. He went upstairs?

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2 A. To his apartment.

3 Q. OK. Who was the doorman at the time?

4 Who was on shift?

5 A. Not sure.

6 Q. Mario?

7 A. Probably, because he works the
8 morning.

9 Q. And he works until mid-afternoon;
10 right?

11 A. Yeah.

12 Q. So you think it was probably Mario?

13 A. Yeah.

14 Q. All right. So Mario was watching the
15 door. When you go into the building, do you go
16 in through the front door?

17 A. Yeah.

18 Q. Did you ever go into the side door?

19 A. I don't have the keys.

20 Q. So you never go in through the side
21 doors?

22 A. No.

23 Q. When you are leaving the building,
24 typically do you leave through the doors or the
25 side doors?

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A. Both. Depends where I am going.

Q. You use both. So if you are going towards 75th Street, you use the 75th door, so with you it's always depending on which way you are going.

A. Yeah.

Q. But you always go through the front door?

A. Yeah.

Q. OK. So now it's 12:30. You've had lunch. What happens next?

A. He speaks to Tayron on the computer.

Q. So by e-mail or IM? Or --

A. IM.

Q. You guys IM a lot?

A. Yeah.

MR. COLBERT: That's Instant Message.

Q. What name does he use?

A. Does who use?

Q. Alex. Alex, the IMs.

A. Bacardi Lemon Ice, I think.

Q. Bacardi Lemon Ice? OK, does he have any e-mail address?

A. He has her e-mail address at AOL.com.

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Q. Does he go on any of these websites,
like My Space?

MR. COLBERT: He then says: "He sent
it by e-mail" -- I am unclear at this point of
things on the tape.

Q. OK, so Ion is Taylor. How do you
know this?

A. Taylor asked if he could come over
and Alex said yes.

Q. How did you know that?

A. Because Alex called me.

Q. Alex called you. What time did Alex
call you, about?

A. I would say 2 o'clock, approximately.

Q. And he told you that Taylor was
coming over?

A. Yeah.

Q. OK. Then what happened?

A. I got in the elevator. I went up.

Q. 3 or 3:30?

A. Earlier.

Q. When you went up, do you mean the
main elevator?

A. Yes.

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Q. OK. So you go up in the main elevator, all right. So Mario was there when you went up; right. He would have been, he was on duty.

A. Pretty sure. Yeah.

Q. OK. You get upstairs. It's about 3, 3:30-ish and you just walk in or you knock?

A. I knock.

Q. OK. And who answers the door?

A. Alex.

Q. OK. Who else is there at the time?

A. Eric.

Q. Who's is Eric?

A. A good friend.

Q. How do you know Eric?

A. I don't know Eric. That was one of Taylor's friends. I just met him that day.

Q. So you met Eric for the first time that day. Is Eric older?

A. Yeah.

Q. You never saw Eric before?

A. I don't know who he is.

Q. So Mario, then, who is on the door, you had seen the two guys who walked in; right?

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2 A. Yeah.

3 Q. And you would have recognized that
4 one of them had never been there before?

5 A. The doorman I am not sure if he had
6 ever seen Taylor.

7 Q. Right. He would have known whether
8 there were two kids who walked in or one kid
9 who walked in, he wouldn't know whether this
10 one kid was named Eric or Darden. He knows who
11 Darden is; right?

12 A. I think so, yeah.

13 Q. So he would know.

14 A. Yeah.

15 Q. So if he didn't see a strange kid
16 walk in, that would become unusual.

17 MR. LEPPER: That's unclear.

18 Q. So if Eric was there, he would know
19 that Eric was there.

20 A. Yeah.

21 Q. So if Eric wasn't there, he would
22 know that Eric wasn't there.

23 A. Yeah.

24 Q. Right. So we know whether Eric was
25 there or not because Mario knows whether Eric

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2 was there or not.

3 A. Unless Alex called him and said that
4 he had two friends coming up, I'm not sure how.

5 Q. So then we would know that also. But
6 that didn't happen, and if only one kid went
7 upstairs or if another kid went upstairs, we
8 would know that too; right?

9 A. Yes.

10 Q. OK. I'm not so sure about Eric guy,
11 frankly, so I want you to tell me exactly what
12 does Eric look like?

13 A. He is not so tall. He has long hair.
14 Skinny kin, 16 years old.

15 Q. White skid, black kid?

16 A. White.

17 Q. So Eric is a white kid about 16 years
18 old. You think he goes to school with Taylor?

19 A. He was going to school that Taylor
20 was going to.

21 Q. He was going to school that Taylor
22 was going to.

23 Q. He was going to school that Eric was
24 going to. And did he drop out also?

25 A. No.

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Q. So he is still in school?

A. Yes.

Q. So I can get ahold of him in two seconds?

A. I think so.

Q. OK. So you say that he is upstairs when you get there?

A. Yes.

Q. OK. So now you are upstairs and what happens?

A. I say hello to everyone. I sit down and start playing a game with Alex.

Q. Where?

A. His bedroom.

Q. In his bedroom?

A. Yeah.

Q. So who is playing the game?

A. Me and Alex.

Q. OK. Where is Taylor and Eric at the time?

A. Taylor is behind just watching because we had two chairs in the front and one in the middle, and then Eric was by the window.

Q. Eric was by the window what, the